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In re Application of : DECISION ON
KLOTZER :
Application No.: 10/058,443 : PETITION
Filing Date: January 22, 2002 :
Attorney's Docket No.: DES:3568.0076 : UNDER 37 CFR 1.78(a)(3)
For: EXPANDED POROUS THERMOPLASTIC :
POLYMER MEMBRANES AND DEVICE FOR :
THE PRODUCTION THEREOF :
:

This is in response to the petition under 37 CFR 1.78(a)(3), filed January 20, 2004, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of a prior-filed application.

BACKGROUND

On 19 January 1999, applicant filed international application PCT/EP99/00286, which claimed priority of an earlier German application filed 29 January 1998. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 05 August 1999. A Demand for international preliminary examination, in which the United States was elected, was filed prior to the expiration of nineteen months from the priority date. Accordingly, the thirty-month period for paying the basic national fee in the United States expired at midnight on 29 July 2000.

On 18 August 2000, applicant filed an application under 35 U.S.C. 111(a). the application was assigned U.S. application number 09/642,390. On 11 June 2001, the first sentence of the description was amend to read as follows: "Pursuant to 35 USC §§ 365(b) and 119, the priority of PCT/EP99/00286 filed 19 January 1999 and German application DE 198 03 362.1 filed 29 January 1998 is claimed."

On 22 January 2002, applicant filed divisional application 10/058,443. A preliminary amendment was filed on the same date amending the first line of the specification as follows: "This is a divisional of Application Serial No. 09/642,390 filed August 18, 2000. The priority of PCT/EP99/00286 filed January 19, 1999 and DE 198 03 362.1 filed January 29, 1998 is claimed pursuant to USC 35 §§120 and 365(b), respectively."

On 22 September 2003, applicant filed a petition under 37 CFR 1.137(b) to revive the international application PCT/EP99/00286.

On 22 December 2003, the petition was dismissed in a decision requiring the filing of (1) a petition and \$130.00 petition fee under 35 U.S.C. 182 in application 09/642,390 to amend the first sentence to state "This application is a continuation of PCT/EP99/00286 filed January 19, 1999" and (2) a petition and petition fee of \$1330.00 in 10/058,443 under 37 CFR 1.78(a)(3) and amend the specification as follows: "This application is a divisional of Application Serial No. 09/642,390 filed August 18, 2000, which is a continuation of PCT/EP99/00286 filed January 19, 1999."

On 20 January 2004, applicant filed this petition under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of a prior-filed application.

DISCUSSION

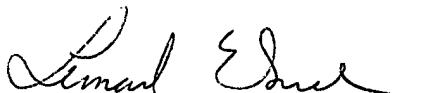
Applicant's petitions under 37 CFR 1.182 to amend the first sentence of US application 09/642,390 to state "This application is a continuation of PCT/EP99/00286 filed January 19, 1999" and to revive the international application PCT/EP99/00286 have been granted.

Applicant's petition and \$1330.00 petition fee in application number 10/058,443 under 37 CFR 1.78(a)(3) to make a claim under 35 U.S.C. 120 to the international application meets the requirements set forth in 37 CFR 1.78(a)(3). Applicant has amended the first sentence of this application as follows: "This application is a divisional of application Serial No. 09/642,930 filed August 18, 2000, which is a continuation of PCT/EP99/00286 filed January 19, 1999." Applicant has filed the petition fee of \$1330 required by 37 CFR 1.17(t) and has made the statement that the entire delay between the date the priority claim was due and the date the claim was filed was unintentional.

CONCLUSION

The petition under 37 CFR 1.78(a)(3) is GRANTED.

The Technology Center will be notified of this decision.



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